

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-209-C - ORDER NO. 2005-142
MARCH 24, 2005

IN RE:	Application of BellSouth)	ORDER RULING ON
	Telecommunications, Inc. for a Certificate of)	JOINT MOTION
	Public Convenience and Necessity to Provide)	
	In-Region InterLATA Services Pursuant to)	
	Section 271 of the Telecommunications Act)	
	of 1996.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Joint Motion of BellSouth Telecommunications, Inc. (BellSouth) and the Competitive Carriers of the South, Inc. (CompSouth) for Adoption of Settlement of Disputed Claims.

On July 20, 2004, BellSouth filed a letter notifying the Commission that BellSouth was withdrawing its Statement of Generally Available Terms and Conditions (SGAT). In response to this letter, on September 2, 2004, CompSouth filed its petition requesting that the Commission prevent BellSouth from withdrawing the referenced SGAT. On September 7, 2004, US LEC of South Carolina, Inc. (US LEC) and Southeastern Competitive Carriers Association (SECCA) filed a petition, a notice of intent, and comments in which they requested that the Commission prevent BellSouth from withdrawing the referenced SGAT.

In order to resolve their dispute, BellSouth and CompSouth have reached a settlement and compromise. These two parties have asked US LEC and SECCA to accept the settlement, but they have refused. Accordingly, BellSouth and CompSouth request that the Commission enter an Order adopting the settlement in final resolution of this Docket over the objections of US LEC and SECCA. This we will not do.

We do not believe that we can sua sponte force two parties who have not agreed to the terms of a settlement to accept the terms of the settlement without a hearing. It may well be that after having heard from all parties, this Commission may decide to hold that the terms of the settlement are proper for all parties. Or, we may not. However, we believe that we would deny US LEC and SECCA their due process rights if we adopt the terms of the settlement for all parties without having heard from them on the issues. Accordingly, we make the following:

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. BellSouth and CompSouth have reached a settlement and compromise of the issues in this Docket.
2. BellSouth and CompSouth have asked the other parties in this case to accept the terms of the compromise, but they have refused.
3. BellSouth and CompSouth request that we enter an Order adopting the settlement in final resolution of this docket over the objections of US LEC and SECCA.
4. This request must be denied. Applying the settlement to all parties without a hearing violates the due process rights of the non-agreeing parties.

5. The Joint Motion for Settlement should be held in abeyance for consideration at the hearing on this matter.

ORDER

The request that we enter an Order adopting the settlement proposed by BellSouth and CompSouth in final resolution of this Docket, over the objections of US LEC and SECCA, is denied. The Joint Motion shall be held in abeyance for consideration at the hearing on this matter. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice-Chairman

(SEAL)